99TH CONGRESS
2d Session

HOUSE OF REPRESENTATIVES

REPORT 99-682
Part 5

IMMIGRATION CONTROL AND LEGALIZATION AMENDMENTS ACT OF 1986

AUGUST 5, 1986.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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Mr. DE LA GARZA, from the Committee on Agriculture, submitted the following

REPORT

AUG 25 1986
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DEPOSITORY 372

[To accompany H.R. 3810]

[Including cost estimate of the Congressional Budget Office]

The Committee on Agriculture, to whom was referred the bill (H.R. 3810) to amend the Immigration and Nationalty Act to revise and reform the immigration laws, and for other purposes, having considered the same and the amendment thereto reported by the Committee on the Judiciary, report those provisions of the bill, as amended, within the jurisdiction of the Committee with amendments and recommend that the provisions as amended be agreed to.

The amendments (stated in terms of page and line numbers of the bill as reported by the Committee on the Judiciary) are as follows:

AMENDMENT NO. 1

Page 43, after line 2, insert the following new section (and insert a corresponding item in the table of contents):

SEC. 114. RESTRICTING WARRANTLESS ENTRY IN THE CASE OF OUTDOOR AGRICULTURAL OPERATIONS.

Section 287 (8 U.S.C. 1357) is amended by adding at the end the following new subsection:

"(d) Notwithstanding any other provison of this section other than paragraph (3) of subsection (a), an officer or employee of the Service may not enter without the consent of the owner (or agent thereof) or a properly executed warrant onto the premises of a farm or other outdoor agricul-

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tural operation for the purpose of interrogating a person believed to be an alien as to the person's right to be or to remain in the United States.".

AMENDMENT NO. 2

Page 61, after line 14, insert the following new subsection:

(d) GAO REPORTS.—

(1) REPORT ON CURRENT PILOT PROJECTS.—The Comptroller General shall—

(A) examine current pilot projects relating to the System for Alien Verification of Eligibility (SAVE) operated by, or through cooperative agreements with, the Immigration and Naturalization Service, and

(B) report, not later than October 1, 1987, to Congress and to the Commissioner of the Immigration and Naturalization Service concerning the effectiveness of such projects and any problems with the implementation of such projects, particularly as they may apply to implementation of the system referred to in subsection (c)(1).

(2) REPORT ON IMPLEMENTATION OF VERIFICATION SYSTEM.—The Comptroller General shall—

(A) monitor and analyze the implementation of such system,

(B) report to Congress and to the appropriate Secretaries described in subsection (c)(4)(D)(ii), by no later than April 1, 1989, on such implementation, and

(C) include in such report such recommendations for changes in the system as may be appropriate.

Page 61, line 7, strike "The amendments" and insert "Except as provided in paragraph (4), the amendments".

Page 61, after line 10, insert the following new paragraph (and redesignate the succeeding paragraph accordingly):

(4) USE OF VERIFICIATION SYSTEM NOT REQUIRED FOR A PROGRAM IN CERTAIN CASES.—

(A) REPORT TO RESPECTIVE CONGRESSIONAL COMMITTEES.—With respect to each covered program (as defined in subparagraph (D)(i), each appropriate Secretary shall examine and report to the appropriate Committees of the House of Representatives and of the Senate, by not later than April 1, 1988, concerning whether (and the extent to which)—

(i) the application of the amendments made by subsection (a) to the program is cost-effective and otherwise appropriate, and

(ii) there should be a waiver of the application of such amendments under subparagraph (B).

The amendments made by subsection (a) shall not apply with respect to a covered program until 6 months after the date of receipt of such report with respect to the program.

(B) WAIVER IN CERTAIN CASES.—If, with respect to a covered program, the appropriate Secretary determines, on the Secretary's own initiative or upon an application by an administering entity and based on such information as the Secretary deems persuasive (which may include the results of the report required under subsection (d)(1) and information contained in such an application), that—

(i) the appropriate Secretary or the administering entity has in effect an alternative system of immigration status verification which—

(I) is as effective and timely as the system otherwise required under the amendments made by subsection (a) with respect to the program, and

(II) provides for at least the hearing and appeals rights for beneficiaries that would be provided under the amendments made by subsection (a), or

(ii) the costs of administration of the system otherwise required under such amendments exceed the estimated savings,

such Secretary may waive the application of such amendments to the covered program to the extent (by State or other geographic area or otherwise) that such determinations apply.

(C) BASIS FOR DETERMINATION.—A determination under subparagraph (B)(ii) shall be based upon the appropriate Secretary's estimate of—

(i) the number of aliens claiming benefits under the covered program in relation to the total number of claimants seeking benefits under the program,

(ii) any savings in benefit expenditures reasonably expected to result from implementation of the verification program, and

(iii) the labor and nonlabor costs of administration of the verification system,

the degree to which the Immigration and Naturalization Service is capable of providing timely and accurate information to the administering entity in order to permit a reliable determination of immigration status, and such other factors as such Secretary deems relevant.

(D) DEFINITIONS.—In this paragraph:

(i) The term "covered program" means each of the following programs:

(I) The aid to families with dependent children program under part A of title IV of the Social Security Act.

(II) The medicaid program under title XIX of the Social Security Act.

(III) The supplemental security income program under title XVI of the Social Security Act.

(IV) Any State program under a plan approved under title I, X, XIV, or XVI of the Social Security Act.

(V) The unemployment compensation program under section 3304 of the Internal Revenue Code of 1954.

(VI) The food stamp program under the Food Stamp Act of 1977.

(VII) The programs of financial assistance for housing subject to section 214 of the Housing and Community Development Act of 1980.

(VIII) The program of grants, loans, and work assistance under title IV of the Higher Education Act of 1965.

(ii) The term "appropriate Secretary" means, with respect to the covered program described in—

(I) subclauses (I) through (IV) of clause (i), the Secretary of Health and Human Services;

(II) clause (i)(V), the Secretary of Labor;

(III) clause (i)(VI), the Secretary of Agriculture;

(IV) clause (i)(VII), the Secretary of Housing and Urban Development; and

(V) clause (i)(VIII), the Secretary of Education.

(iii) The term "administering entity" means, with respect to the covered program described in—

(I) subclause (I), (II), (IV), (V), or (VI) of clause (i), the State agency responsible for the administration of the program in a State;

(II) clause (i)(III), the Secretary of Health and Human Services;

(III) clause (i)(VII), the Secretary of Housing and Urban Development, a public housing agency, or another entity that determines the eligibility of an individual for financial assistance; and

(IV) clause (i)(VIII), an institution of higher education involved.

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Brief Explanation of Committee Amendments

OUTDOOR AGRICULTURAL OPERATIONS

Officers of the Immigration and Naturalization Service will be prohibited from entering onto the premises of a farm or other outdoor agricultural operation to question a person believed to be an alien unless they have (1) consent of the owner or his agent or (2) a properly executed warrant. (Comm. Amdt. no. 1.)

USE OF VERIFICATION SYSTEM AND REPORTS

With respect to the bill's proposed system under which States will be required to verify the immigration status of aliens applying for specified public assistance programs—

(1) the Comptroller General will be required to study and report (by October 1, 1987) on current verification pilot projects, and (by April 1, 1989) on the Service's implementation of verification requirements under the bill;

(2) the Secretaries of the Federal departments overseeing the assistance programs will be required to report to the appropriate committees of Congress, by April 1, 1988, concerning whether the proposed State verification system is cost-effective and otherwise appropriate and whether the State verification requirements under the proposed system should be waived; and

(3) the Secretaries will be authorized to waive the applicability of the proposed State verification system to the assistance program involved, if (a) there is in effect an alternative system of verification that is effective and provides adequate appeal rights, or (b) the costs of the proposed system exceeds estimated savings under it.

The public assistance programs involved are the aid to families with dependent children program, medicaid, the supplemental security income program, certain State programs under the Social Security Act, the unemployment compensation program, the food stamp program, certain housing programs, and Higher Education Act assistance programs. (Comm. Amdt. no. 2.)

Purpose and Need

The Committee on Agriculture supports the provisions of H.R. 3810, as reported by the Committee on the Judiciary, on those matters within the Agriculture Committee's jurisdiction. Those matters include sections 101 and 112 (employee sanctions), 201 (benefits for aliens), 301 (H-2 reform), 302 and 303 (special agricultural workers program), (Commission), 305 (legal assistance to H-2A workers), 402 (Secretaries' report), and 403 and 404 (reports).

The Committee is pleased that a compromise agreement has been reached by Members of the Judiciary Committee and various other authorizing committees with regard to the H-2 agricultural program and the special agricultural workers program for perishable commodities. However, a provision in H.R. 3810, as introduced, to require the consent of the owner or a warrant prior to entering agricultural fields to interrogate suspected illegal aliens, was deleted during Judiciary Committee consideration of the bill. The Com-

mittee on Agriculture recommends that this provision be restored. Additionally, the Committee recommends, in conjunction with several other committees, improvements to that part of the legislation providing for a systematic alien verification for entitlements (SAVE) program for various Federal public assistance programs.

OUTDOOR AGRICULTURAL OPERATIONS

The Fourth Amendment to the Constitution forbids unreasonable searches and seizures, giving rise to a presumption that searches and seizures must be under a warrant issued by a magistrate. However, through the course of the years, the Supreme Court has recognized exceptional situations in which a warrant is not required. One of these exceptions is the so-called "open fields" doctrine that allows law enforcement officers to search an open field without a warrant.

Since *Hester* v. *United States*, 265 U.S. 57, in which this exception was recognized, the Supreme Court has in a number of cases reexamined and reiterated the *Hester* doctrine: there is no Constitutional protection against search and seizure in an open field.

Since Immigration and Naturalization Service policy treats agricultural lands as "open fields," there is now no requirement for Service enforcement officials to obtain a warrant prior to entering farms or ranches. However, this policy is unlike the policy applied to other places of business. Also, under this policy, one of the basic rights provided under the Constitution, the right of people to be secure against unreasonable searches and seizures, is being denied to an important segment of our society—farmers and ranches.

Further, according to the Department of Labor (based on the limited data available), of the millions of undocumented aliens in the United State, it is likely that most of them are in the labor market. However, of the 1.3 million apprehensions by the Immigration and Naturalization Service last year, only 110 thousand of these persons were actively employed and 72 percent of those employed were in agriculture. With the apparent large number of other undocumented aliens working in other industries, it is obvious that the Service's enforcement efforts are focused primarily in those areas easiest to access.

In addition, the surprise raids by the Service, in the Committee's view, have unduly harrassed agricultural employers and employees and, in a number of situations, have jeopardized the lives of workers. Such raids have caused damage to crops in many instances and unnecessary disruptions in employment. Work stoppages are costly to the farmer, especially in perishable commodities, when agricultural products cannot be harvested timely.

The Committee amendment no. 1 would require that a Service enforcement officer may not enter an outdoor agricultural operation for the purpose of questioning an alien without the consent of the owner or a search warrant.

This proposal has been carefully designed to ensure applicability only to agricultural operations. It ensures agricultural employers and employees equal protection under the law.

The amendment will not require a warrant in other cases relating to the arrest of an alien who appears to be in violation of the

Immigration and Nationality Act and is likely to escape before a warrant can be obtained. Neither does the amendment address warrantless entry to apprehend those committing a felony. Nor would the Committee amendment prevent immigration officers from entering property within 25 miles of our national borders without a warrant, for purposes of border patrol.

It should be noted that the Administration opposes the amendment because it is the view of the Immigration and Naturalization Service that the requirement for a warrant would curtail the enforcement activities of that agency. However, the Committee has not received convincing evidence to support the view that search warrant requirements or consent of the owner for entry into open agricultural lands would unduly hamper enforcement efforts.

The House of Representatives had declared its interest, in past immigration reform legislation, in correcting this injustice to farmers.

In 1984, the House Judiciary Committee reported H.R. 1510, the Immigration Reform and Control Act of 1983, which included a similar provision. A vote on the House floor on June 13, 1984, to strike the language restricting warrantless entry was rejectd by a substantial margin (133 ayes to 285 noes).

The ensuing House-Senate conference on that bill crafted a compromise amendment to restrict entry on farm or other agricultural operations unless there was consent of the owner or a properly executed warrant. However, no final agreement on other provisions of the bill was reached, so that Congress was unable to finalize its work on immigration reform legislation that year.

H.R. 3810, as introduced by Chairman Rodino of the Committee on the Judiciary, contained a provision identical to the Committee on Agriculture amendment.

A wide range of organizations, including fam, civil liberties, and labor organizations, support the amendment.

The Committee on Agriculture amendment, which is the same as that adopted by the House-Senate conferences in 1984, will ensure that agricultural employers and employees receive the clear and equal protections of the law currently accorded others against unreasonable searches and seizures.

USE OF VERIFICATION SYSTEM AND REPORTS

A major concern about the legalization procedures in the immigration reform proposals that Congress has considered in the past has been the possibility that Federal and State public assistance costs would be increased if persons not eligible for benefits under the legalization procedures applied for benefits and States were unable to verify whether these persons were eligible.

To avoid erroneous payments to persons ineligible for benefits, H.R. 3810, as reported by the Committee on the Judiciary, would require States beginning October 1, 1988, to verify whether alien applicants for certain public assistance programs are in a lawful immigration status and thus eligible for participation in the programs. This procedure is known as systematic alien verification for entitlements program (SAVE). Programs involved in SAVE would be: aid to families with dependent children (AFDC), medicaid, un-

employment compensation, certain State programs under the Social Security Act, food stamps, supplemental securilty income, housing assistance, and higher education assistance.

The Committee on Agriculture supports the SAVE procedures as an important safeguard to hold down public assistance costs. At the same time, the Committee wants to ensure that SAVE is implemented in a way that would not impose administrative burdens either on Federal agencies or the States unless there was some assurance that savings would result.

To ensure that the savings from avoiding erroneous benefit payments would exceed increased administrative costs the Federal Government and States would incur from implementing SAVE, the Agriculture Committee has approved an amendment to the SAVE provision to provide the following:

First, reports by the General Accounting Office would be required on both the pilot projects currently under way and the verification system that would be implemented starting in fiscal year 1989. The report on the pilot projects would be due not later than October 1, 1987. The report on implementation of SAVE would be due no later than April 1, 1989; and

Second, before SAVE could be implemented for specific programs in a State or geographic area, the Secretary of the administering Federal department would have to report whether SAVE would be cost-effective and otherwise appropriate and whether the SAVE provisions should be waived. This report would be submitted to the authorizing committees of Congress with jurisdiction over the program or programs affected in SAVE no later than April 1, 1988. SAVE could not be implemented for a given program until six months after receipt by Congress of the report. The Secretary with authority over a program or programs affected by SAVE could waive the application of the SAVE provisions in a State or other geographic area if it is determined that—

(1) there is in effect an alternative system of immigration status verification as effective and timely as SAVE; or

(2) the cost of administering SAVE would exceed the estimated savings.

Section-by-Section Analysis of the Committee Amendments

Amendment No. 1—Outdoor Agricultural Operations

Committee amendment No. 1 will add a new section 114 to H.R. 3810, as reported by the Committee on the Judiciary. New section 114 would add a new subsection (d) to section 287 of the Immigration and Nationality Act.

Under current law, section 287, in subsection (a), provides that officers and employees of the Immigration and Naturalization Service have the power without warrant to—

(1) interrogate any alien or person believed to be an alien as to his right to be in the United States (paragraph (1));

(2) arrest any alien crossing the border illegally in his presence, or any alien in the United States he has reason to believe is violating the immigration laws and is likely to escape before an arrest warrant can be issued (paragraph (2));

(3) within a reasonable distance from the border, board and search vessels and other conveyances (paragraph (3));

(4) within 25 miles of the border, have access to private lands (but not dwellings) for the purpose of patrolling the border (paragraph (3));

(5) make arrests for any felony cognizable under the immigration laws if he has reason to believe that the person arrested is guilty of the felony and there is a likelihood that the person will escape before an arrest warrant can be issued (paragraph (4)).

Subsection (b) of section 287 authorizes officers and employees of the Service to administer oaths and to take and consider evidence concerning matters that are material or relevant to enforcing the Act. It also establishes penalties for false oaths. Subsection (c) authorizes designated officers or employees of the Service to search persons seeking admission to the United States and their personal effects.

Under new subsection (d), to be added under Committee amendment No. 1, officers and employees of the Service would be prohibited (except as described below) from entering the premises of a farm or other outdoor agricultural operation, without consent of the owner or his agent or a properly executed warrant, for the purpose of interrogating a person believed to be an alien as to the person's right to be or to remain in the United States. The prohibition would not apply to activities empowered under paragraph (3) of subsection (a), that is, searches of conveyances within a reasonable distance of the border and access to private lands within 25 miles of the border as a part of border patrol.

AMENDMENT NO. 2—USE OF VERIFICATION SYSTEM AND REPORTS

Committee amendment No. 2 will add a new subsection (d) to, and revise subsection (c) of, section 121 of H.R. 3810, as reported by the Committee on the Judiciary, relating to verification of alien status under certain programs.

Subsection (a) of section 121, as reported by the Judiciary Committee, will amend section 1137 of the Social Security Act and other provisions of law to require the States to verify the immigration status of aliens applying under certain public assistance programs, including aid to families with dependent children (AFDC), medicaid, unemployment compensation, food stamps, supplemental security income (SSI), housing assistance, and title IV educational assistance. Under subsection (a), alien applicants will have the opportunity to submit evidence as to immigration status without denial or termination of benefits until evidence of status has been verified. Also, States will not be liable for the consequences or verification.

Subsection (b) of section 121, as reported by the Judiciary Committee, will amend the assistance program statutes involved to provide for 100 percent reimbursement to the States for implementing the status verification system to be established under subsection (a).

Subsection (c) of section 121, as reported by the Judiciary Committee, in paragraph (1), will require the Immigration and Natural-

ization Service to implement its system for alien status verification, by October 1, 1987. It also will prohibit the use of the Service's system for certain enforcement purposes, and require that it be implemented in a nondiscriminatory manner. Subection (c), in paragraph (2), will make the State reimbursement provisions of subsection (b) effective October 1, 1987. Subsection (c), in paragraph (3), provides that the States will have until October 1, 1988, to comply with requirements imposed under subsection (a). Subsection (c), in paragraph (4), will authorize funding for the Service to carry out section 121.

Under new subsection (d), to be added by Committee amendment No. 2, two studies and reports by the Comptroller General will be required, as follows:

(1) *Report on current pilot projects.*—The Comptroller General will be required to—

(A) examine current pilot projects relating to the system for alien verification of eligibility (SAVE) (the matter addressed by section 121) operated by, or through cooperative agreements with, the Service, and

(B) report, not later than October 1, 1987, to Congress and to the Commissioner of the Immigration and Naturalization Service concerning the effectiveness of such projects and any problems with the implementation of such projects, particularly as they may apply to implementation of the Service's verification system referred to in paragraph (1) of subsection (c).

(2) *Report on implementation of verification system.*—The Comptroller General will be required to—

(A) monitor and analyze the implementation of the Service's verification system,

(B) report to Congress and to the Federal departmental Secretaries hat oversee the assistance programs covered by subsection (a), by not later than April 1, 1989, on such implementation; and

(C) include in such report any recommendatins for change in the Service's system as may be appropriate.

Committee amendment No. 2 will amend paragraph (3) of subsection (c), as reported by the Judiciary Committee, to provide that the October 1, 1988, effective date for the amendments made by subsection (a) and for the requirements applicable to the States thereunder will be subject to the provisions of new paragraph (4).

Committee amendment No. 2 also will add, to subsection (c), a new paragraph (4), entitled "Use of verification system not required for a program in certain cases". Current paragraph (4) will be redesignated as paragraph (5).

Under new paragraph (4), with respect to each covered program (as defined in paragraph (4) and described below), each appropriate Secretary (as defined in paragraph (4) and described below) must examine and report to the appropriate Committees of the House of Representatives and of the Senate, by not later than April 1, 1988, concerning whether (and the extent to which)—

(1) the application of the amendments made by subsection (a) to the program is cost-effective and otherwise appropriate, and

(2) there should be a waiver of the application of such amendments.

The amendments made by subsection (a) would not apply with respect to a covered program until six months after the date of receipt of such report with respect to the program.

Also under new paragraph (4), if, with respect to a covered program, the appropriate Secretary determines, on the Secretary's own initiative or an application by an administering entity (as defined in paragraph (4) and described below) and based on information the Secretary deems persuasive (which may include the results of the Comptroller General's report on current status verification projects to be required under new subsection (d) and information contained in the application), that—

(1) the appropriate Secretary of the administering entity has in effect an alternative system of immigration status verification that—

(A) is as effective and timely as the system otherwise required under the amendments made by subsection (a) with respect to the program; and

(B) provides for at least the hearing and appeals rights for beneficiaries that would be provided under the amendments made by subsection (a), or

(2) the costs of administration of the System otherwise required under such amendments exceed the estimated savings,

the Secretary could waive the application of such amendments to the covered program to the extent (by State or other geographic area or otherwise) that such determinations apply.

A determination as to whether the costs of administering a subsection (a) system will exceed estimated savings would be based on—

(1) the appropriate Secretary's estimate of—

(A) the number of aliens claiming benefits under the covered program in relation to the total number of claimants seeking benefits under the program,

(B) any savings in benefit expenditures reasonably expected to result from implementation of the verification program, and

(C) the labor and nonlabor costs of administration of the verification system;

(2) the degree to which the Immigration and Naturalization Service is capable of providing timely and accurate information to the administering entity to permit a reliable determination of immigration status; and

(3) other factors the Secretary deems relevant.

Paragraph (4) defines the term "covered program" to mean each of the following programs:

(1) The aid to families with dependent children program under Part A of title IV of the Social Security Act.

(2) The medicaid program under title XIX of the Social Security Act.

(3) The supplemental security income program under title XVI of the Social Security Act.

(4) Any State program under a plan approved under title I, X, XIV, or XVI of the Social Security Act.

(5) The unemployment compensation program under section 3304 of the Internal Revenue Code of 1954.

(6) The food stamp program under the Food Stamp Act of 1977.

(7) The programs of financial assistance for housing subject to section 214 of the Housing and Community Development Act of 1980.

(8) the program of grants, loans, and work assistance under title IV of the Higher Education Act of 1965.

Paragraph (4) defines the term "appropriate Secretary" to mean—

(1) the Secretary of Health and Human Services with respect to the aid to families with dependent children program, medicaid program, supplemental security income program, and State programs under title I, X, XIV, or XVI or the Social Security Act;

(2) the Secretary of Labor with respect to the unemployment compensation program;

(3) the Secretary of Agriculture with respect to the food stamp program;

(4) the Secretary of Housing and Urban Development with respect to the programs of financial assistance for housing; and

(5) the Secretary of Education with respect to the program under Higher Education Act of 1965.

Paragraph (4) defines the term "administering agency" to mean—

(1) the State agency reponsible for the administration of the program in a State, with respect to the aid to families with dependent children, medicaid, Social Security Act, unemployment compensation, and food stamp programs;

(2) the Secretary of Health and Human Services with respect to the supplemental security income program;

(3) the Secretary of Housing and Urban Development, a public housing agency, or another entity that determines the eligibility of an individual for financial assistance, with respect to the housing programs; and

(4) the institution of higher education involved, with respect to the Higher Education Act program.

COMMITTEE CONSIDERATION

On July 31, 1986, the Committee on Agriculture met, a quorum being present, to consider H.R. 3810, the Immigration Control and Legalization Amendments Act of 1986.

Chairman de la Garza noted that the Committee on Agriculture did not conduct public hearings on the legislation this year in view of previous hearings on immigration reform legislation in the last Congress. He pointed out the Members of the Committee had been working an ad hoc basis with Members of the Committee on the Judiciary in expediting action on the legislation and in promoting and protecting agricultural interests.

Congressman Panetta was recognized to discuss that section of the bill relating to temporary agricultural workers. He advised the Committee that compromise on the H-2 and special agricultural worker provisions of the bill had been reached among members from the committees of the House representing agricultural, labor,

and law enforcement jurisdiction areas. He stated that the compromise was endorsed by a broad cross-section of groups including the Farm Labor Alliance, the American Farm Bureau Federation, the H-2 Coalition, the AFL-CIO, as well as number of civil rights groups.

Congressman Morrison spoke briefly on past efforts of the Committee to provide, in immigration reform legislation, appropriate measures to protect the supply of workers in agriculture.

The Committee then proceeded to consider amendments to H.R. 3810, as reported by the Committee on the Judiciary.

Congressman Panetta offered an amendment on behalf of himself, and Congressmen Morrison and Coelho, to require consent of the owner or a search warrant before Immigration and Naturalization Service enforcement officers could enter a farm or other outdoor agricultural operation to interrogate any person believed to be an alien as to his right to be in the United States. He stated that this amendment had been part of the original bill but that it had been deleted by the Judiciary Committee during its consideration of H.R. 3810. He further noted that the amendment was needed to provide protection to farmers and farm employees under the Fourth Amendment of the Constitution and to prevent certain unwarranted tactics by the Service that jeopardize the lives of farmworkers.

Mr. Morrison discussed the inequity of having to secure a warrant for outdoor agricultural operations as opposed to any other place of employment. He and several other Members of the Committee expressed strong support for the amendment.

Mr. Volkmer expressed concern that the amendment did not address what was to be required of the Immigration and Naturalization Service to obtain a warrant. Mr. Staggers commented on the difficulty of describing an agricultural field to obtain a warrant. Other discussion of the amendment ensued, and counsel explained that the amendment required consent of the owner or warrant only where interrogation, not arrest, was concerned. The amendment was agreed to by voice vote.

Mr. Panetta offered a further amendment to that section of the bill relating to the systematic alien verification for entitlements program (SAVE). Under the legislation, States would be required to verify whether alien applicants for aid to families with dependent children, medicaid, unemployment compensation, State assistance under the Social Security Act, food stamps, supplemental security income, housing assistance, and higher education assistance are in a lawful immigration status and thus eligible to participate in the program. He noted that other authorizing Committees of the House had endorsed this or similar language. After an explanation of the provision, the Committee approved the amendment by voice vote.

Mr. Lewis was recognized to offer an amendment to the legalization section of the bill to change the date for temporary resident status from January 1, 1982, to January 1, 1978. In the discussion of the amendment that followed, Chairman de la Garza noted Committee jurisdictional problems and offered assistance of the Committee, if possible, in allowing Mr. Lewis to offer his amendment on the House floor. The amendment was then withdrawn.

A motion to favorably report the bill, with amendments to the bill as reported by the Committee on the Judiciary, was offered; and the Committee approved the motion by a voice vote.

Administration Position

At the time of the filing of this report, the Committee had not received a report from the Administration concerning H.R. 3810, as amended by the Committee on Agriculture.

Budget Act Compliance (Section 308 and Section 403)

The provisions of clause 2(l)(3)(B) of Rule XI of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974 (relating to estimates of new budget authority or new or increased tax expenditures) are not considered applicable. The estimate and comparison required to be prepared by the Director of the Congressional Budget Office under clause 2(l)(3)(C) of Rule XI of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974 submitted to the Committee prior to the filing of this report are as follows:

U.S. Congress,
Congressional Budget Office,
Washington, DC, August 1, 1986.

Hon. E de la Garza,
Chairman, Committee on Agriculture, U.S. House of Representatives, Washington, DC.

Dear Mr. Chairman: The Congressional Budget Office has prepared this cost estimate for amendments to H.R. 3810, the Immigration Control and Legalization Amendments Act of 1986, as ordered reported by the House Committee on Agriculture on July 31, 1986. H.R. 3810 was ordered reported by the House Committee on the Judiciary on June 25, 1986.

This estimate provides the spending impacts of the Committee on Agriculture amendments to H.R. 3810. The original CBO estimate for H.R. 3810, as reported by the Committee on the Judiciary, is attached to provide background information. The table below shows the original estimate of H.R. 3810's impact on spending, the Committee on Agriculture changes to spending, and the resulting estimated spending, revenue, and federal deficit totals for the bill as amended.

ESTIMATED COST TO THE FEDERAL GOVERNMENT

[By fiscal year, in millions of dollars]

	1986	1987	1988	1989	1990	1991
Judiciary bill:						
Required budget authority/estimated authorization level	434	655	1,170	1,885	2,201	2,277
Estimated outlays		480	819	1,779	2,348	2,475
Agriculture amendments:						
Required budget authority/estimated authorization level		(1)	(1)	(1)	(1)	(1)
Estimated outlays		(1)	(1)	(1)	(1)	(1)
Total spending:						
Required budget authority/estimated authorization level	434	655	1,170	1,885	2,201	2,277

ESTIMATED COST TO THE FEDERAL GOVERNMENT—Continued

[By fiscal year, in millions of dollars]

	1986	1987	1988	1989	1990	1991
Estimated outlays		480	819	1,779	2,348	2,475
Estimated revenues		70	166	54	54	
Net budget impact: estimated net increase or decrease (−) in the deficit		410	653	1,725	2,294	2,475

[1] Less than $500,000.

The Committee on Agriculture reported two amendments to H.R. 3810, neither of which is estimated by CBO to affect spending significantly.

The System for Alien Verification of Eligibility (SAVE), which would require a number of federal benefit programs to check with the Immigration and Naturalization Service as to the resident status of aliens applying for program benefits, was amended. These amendments would permit a program or jurisdiction not to use SAVE if waivers were granted by Department Secretaries. Waivers could be given if alternative verfication systems were found to be as effective or if the administrative costs of SAVE exceeded any estimated savings. Without knowing more about SAVE and the extent to which waivers might be granted, the CBO estimate assumed that savings and costs would be approximately offsetting. If the cost effectiveness of SAVE could be measured accurately and waivers granted accordingly, however, these amendments would be likely to result in federal budgetary savings.

In addition, an amendment to Title I would prohibit officers or employees of the Immigration and Naturalization Service from entering the premises of a farm or other outdoor agricultural operation without the consent of the owner or without a properly executed warrant. This amendment is not expected to have a significant budgetary impact.

If you wish further details on this estimate, please call me or have your staff contact Janice Peskin (226-2820).

With best wishes,

Sincerely,

RUDOLPH G. PENNER, *Director.*

INFLATIONARY IMPACT STATEMENT

Pursuant to clauses 2(l)(4) of Rule XI of the Rules of the House of Representatives, the Committee estimates that enactment of H.R. 3810, as amended by the Committee, will have no inflationary impact on the national economy.

OVERSIGHT STATEMENT

No summary of oversight findings and recommendations made by the Committee on Government Operations under clause 2(b)(2) of Rule X of the Rules of the House of Representatives was available to the Committee with reference to the subject matter specifically addressed by H.R. 3810, as amended by the Committee on Agriculture.

No specific oversight activities other than the hearings detailed in this report were conducted by the Committee within the definition of clause 2(b)(1) of Rule X of the Rules of the House of Representatives.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of Rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, except as shown below, are shown in part 1 of this report, filed by the Committee on the Judiciary on July 16, 1986. The difference between the bill as reported by the Committee and as reported by the Committee on Judiciary are shown below using the following typographical devices (with "Judiciary" referring to the Committee on the Judiciary and "Agriculture" referring to the Committee on Agriculture):

Existing law in which no change is proposed by Judiciary or Agriculture, printed in roman.

New matter proposed to be inserted only by Agriculture (and not by Judiciary), printed in **boldface roman.**

IMMIGRATION AND NATIONALITY ACT

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TITLE II—IMMIGRATION

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CHAPTER 9 MISCELLANEOUS

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POWERS OF IMMIGRATION OFFICES AND EMPLOYEES

SEC. 287. (a) Any officer or employee of the Service authorized under regulations prescribed by the Attorney General shall have power without warrant—

(1) to interrogate any alien or person believed to be an alien as to his right to be or to remain in the United States;

(2) to arrest any alien who in his presence or view is entering or attempting to enter the United States in violation of any law or regulation made in pursuance of law regulating the admission, exclusion, or explusion of aliens, or to arrest any alien in the United States, if he has reason to believe that the alien so arrested is in the United States in violation of any such law or regulation and is likely to escape before a warrant can be obtained for his arrest, but the alien arrested shall be taken without unnecessary delay for examination before an officer of the Service having authority to examine aliens as to their right to enter or remain in the United States;

(3) within a reasonable distance from any external boundary of the United States, to board and search for aliens any vessel within the territorial waters of the United States and any railway car, aircraft, conveyance, or vehicle, and within a distance of twenty-five miles from any such external boundary to have access to private lands, but not dwellings for the purpose of pa-

trolling the border to prevent the illegal entry of aliens into the United States; and

(4) to make arrests for felonies which have been committed and which are cognizable under any law of the United States regulating the admission, exclusion, or expulsion of aliens, if he has reason to believe that the person so arrested is guilty of such felony and if there is likelihood of the person escaping before a warrant can be obtained for his arrest, but the person arrested shall be taken without unnecessary delay before the nearest available officer empowered to commit persons charged with offenses against the laws of the United States. Any such employee shall also have the power to execute any warrant or other process issued by an officer under any law regulating the admission, exclusion, or expulsion of aliens.

(b) Any officer or employee of the Service designated by the Attorney General, whether individually or as one of a class, shall have power and authority to administer oaths and to take and consider evidence concerning the privilege of any person to enter, reenter, pass through, or reside in the United States, or concerning any matter which is matarial or relevant to the enforcement of this Act and the administration of the Service; and any person to whom such oath has been administered (or who has executed an unsworn declaration, certificate, verification, or statement under penalty of perjury as permitted under section 1746 of title 28 United States Code), under the provisions of this Act, who shall knowingly or willfully give false evidence or swear (or subscribe under penalty of perjury as permitted under section 1746 of title 28, United States Code) to any false statement concerning any matter referred to in this subsection shall be guilty of perjury and shall be punished as provided by section 1621, title 18, United States Code.

(c) Any officer or employee of the Service authorized and designated under regulations prescribed by the Attorney General, whether individually or as one of a class, shall have power to conduct a search, without warrant, of the person, and of the personal effects in the possession of any person seeking admission to the United States, concerning whom such officer or employee may have reasonable cause to suspect that grounds exist for exclusion from the United States under this Act which would be disclosed by such search.

(d) Notwithstanding any other provision of this section other than paragraph (3) of subsection (a), an officer or employee of the Service may not enter without the consent of the owner (or agent thereof) or a properly executed warrant onto the premises of a farm or other outdoor agricultural operation for the purpose of interrogating a person believed to be an alien as to the person's right to be or to remain in the United States.

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